

DESOTO COUNTY BOARD OF SUPERVISORS
BOARD MEETING MINUTES
DISTRICT ONE JESSIE MEDLIN, PRESIDING

April 7, 2016

A. CALL TO ORDER

The April 7, 2016 meeting of the DeSoto County Board of Supervisors was called to order by Supervisor Jessie Medlin, Board President.

Sheriff Bill Rasco of the DeSoto County Sheriff's Department was present and opened the DeSoto County Board of Supervisors meeting in a regular session to hear all business before the Board of Supervisors. The following officials were present:

Supervisor Jessie Medlin	District 1
Supervisor Mark Gardner	District 2
Supervisor Bill Russell	District 3
Supervisor Lee Caldwell	District 4
Supervisor Michael Lee	District 5
Sheriff Bill Rasco	Sheriff
Misty Heffner	Chancery Clerk
Vanessa Lynchard	County Administrator
Tony Nowak	Board Attorney

B. INVOCATION

Supervisor Lee Caldwell presented the invocation.

C. PLEDGE OF ALLEGIANCE

D. CITIZENS REMARKS & PRESENTATIONS

Supervisor Jessie Medlin asked if there was anyone present who wished to address the Board on items not regarding the agenda. No one came forward.

E. APPROVAL OF AGENDA: ADDITIONS AND DELETIONS

Supervisor Jessie Medlin asked if there was anyone who wished to add or delete items to the Agenda.

- 1. Director of Procurement and Administrative Services Pat McLeod requested to add approval of a support agreement contract with Pharos for election equipment. (New, I.2.)**
- 2. Board Attorney Tony Nowak requested the Board to consider Litigation-Taylor in Executive Session. (Executive, J.3.)**
- 3. County Administrator Vanessa Lynchard requested to add the following:**
 - a. Accounting – Late Bill, Audit Department (New, I.1.)**
 - b. Potential Litigation – School Tax Levy (Executive, J.1.b)**
 - c. Personnel – EMS (Executive, J.2.a.)**

Supervisor Lee Caldwell made the motion and Supervisor Michael Lee seconded the motion to approve the agenda with the additions, deletions, and changes as stated above.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

F. CONSENT AGENDA

1. Office of Procurement - Approve Josh Harper to sign requisitions for all budget lines for EMS Department:

- 001-240 Ambulance Service
- 113-240 State Emergency Mgmt. Ops FD
- 114-240 Delta Trauma Care
- 380-240 Capital Expenditure

Supervisor Jessie Medlin made the motion and Supervisor Bill Russell seconded the motion to approve the Consent Agenda items and actions as set forth above.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

See Exhibit F

G. OLD BUSINESS

1. Board Attorney – E911 Equipment Purchase – Motorola Solutions

Board Attorney Tony Nowak stated that he had received an amendment to the Motorola contract with the corrected amount as discussed at the April 4, 2016 meeting.

Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to approve the addendum to amend the contract with Motorola for E911’s equipment purchase.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

See Exhibit G.1.

2. Tripp Wells Contract

Facilities Manager Robert Jarman stated he met with Mr. Wells and went over what he might be expected to do. Mr. Jarman said he does not think it is necessary for Mr. Wells to see all change orders, but he could look at bids to be sure they are reasonable and be sure the contractors are doing things correctly. Mr. Jarman said he thought he and the committee could approve changes of intent or scope of work.

There was some discussion regarding why Mr. Wells was looking at 5 projects: Land Records, Juvenile Court Renovations, Courtroom Renovation (2nd floor), Courthouse Entrance – ADA, County Admin Building – Sitework ADA. Mr. Jarman suggested that the Juvenile Court drawings are conceptual, and Mr. Wells could look at them and make suggestions on proper pieces of equipment that are necessary. He also said he could use Mr. Wells’ input on the larger change orders and to see if the architect misses

something. Mr. Jarman felt that Mr. Wells could negotiate better pricing with architects. The Board discussed the value of having Mr. Wells look at 5 projects. Mr. Jarman stated he really thought they would be looking at more hours, and Supervisor Gardner said Mr. Wells was being frugal with his hours. Supervisor Medlin stated he would just like to give Mr. Wells the Juvenile Courtroom project and see how he does. Supervisor Russell stated he would like to bring him in with all 5 projects going on.

Supervisor Bill Russell made the motion and Supervisor Mark Gardner seconded the motion to accept Mr. Tripp Wells estimate regarding the following projects: Land Records, Juvenile Court Renovations, Courtroom Renovation (2nd floor), Courthouse Entrance – ADA, County Admin Building – Sitework ADA and to authorize him to begin work on these projects.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>NO</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

Chancery Clerk Misty Heffner said she would like to make a few changes to the Land Records plans, since she did not have any input in the original plans. Mr. Jarman stated that one major change Mrs. Heffner wanted would save some money on the project.

See Exhibit G.2.

H. PLANNING COMMISSION

1. PUBLIC HEARING

a. Zoning Ordinance Amendment

- i. Application Deadline Gravel Pits and Mobile Homes in A-R Zone – The Board of Supervisors will consider extending the deadline for applications for Gravel Pits and Mobile Homes in the Agricultural-Residential Zone to December 31, 2016.**

Mr. Hopkins presented the background information concerning gravel pits gathered by the Planning staff and GIS staff as follows:

THERE ARE CURRENTLY 5 ACTIVE CONDITIONAL USE PERMITS FOR GRAVEL PIT OPERATIONS:

- 4 in Zone “A”
- 1 in Zone “A-R”
- Only 4 of the five Conditional Uses are Actively Producing Sand and Gravel
- There have been 86 Sites Considered since 1971
 - 77 were Approved
 - 9 were Denied
 - 22 of the 77 are in “A-R” and 55 in “A”
 - First Conditional Use for a gravel pit operation in “A-R” was approved in 1987

ACREAGE IN ZONING

- “A-R” 52,387.93 Acres / 81.81 Square Miles
- “A” 145,029 Acres / 226 Square Miles

SUBDIVISIONS

- In the “A-R” zone there are 63 Subdivisions
- In the “A” zone there are 83 Subdivisions

He then presented aerial views of areas within the County that were once gravel pits and have been reclaimed and are now the location of Methodist Hospital Olive Branch, and the commercial area around Baptist DeSoto Hospital. He also presented aeriels through the County's GIS website that showed houses and subdivisions were developed around the gravel pit while it was in production.

Supervisor Medlin clarified that just because an area was zoned Agricultural does not mean it is used for cropland, there are subdivisions developed in the Agricultural zone.

Mr. Hopkins stated in the Agricultural zone and Agricultural-Residential zone the mining of clay and dirt is a permitted use and a Conditional Use is not required. He then stated that gravel mine operations require a Conditional Use in both the Agricultural and Agricultural-Residential zones. Mr. Hopkins then clarified that the Sunset Provision does not apply to the Agricultural zone.

Supervisor Caldwell asked what would happen to the Conditional Use for the gravel mining operation on Starlanding Road if the Sunset Provision is not approved. Mr. Nowak stated the current conditional use is set to expire; once it expires the applicant would need to reapply for their Conditional Use and cannot do that at this time since the Sunset Provision has expired, nor will they be able to apply in the future if the Sunset Provision is not extended. Mr. Nowak then discussed distinguishing between existing and new Conditional Uses, how removing the ability to apply for a Conditional Use in the Agricultural-Residential zone could be considered arbitrary and capricious. He then gave a definition and brief explanation of exclusionary zoning. Supervisor Russell stated if the Board eliminated the Conditional Use in the A-R zone it could be harming an existing business in the eyes of the law. Mr. Nowak stated they could have a strong argument for that.

Supervisor Medlin stated that when a Conditional Use application goes before the Board of Adjustment often times if approved a condition that the operation be reviewed every so often is required even if approved for 10-20 years.

Supervisor Medlin asked if there was anyone to speak for or against this item. He then asked anyone who wishes to speak to limit their comments to 3 minutes.

Hal Williford, with Memphis Stone and Gravel Company came forward and stated he was in support of approving the Sunset Provision. He stated their company has been in operation since 1910 and has been operating in DeSoto County since 1950. He then stated his company has mined approximately 20 tracts in DeSoto County and the majority of those tracts have been in the Agricultural-Residential zone. Mr. Williford stated he feels that his company has been a good neighbor to DeSoto County. He stated that in the early 1990's his company had five active mining sites to keep up with the development in DeSoto County, as the gravel is used for foundations, driveways, pool decks, walkways and for paving roads. Mr. Williford said if not using this local resource the County would have to pay more for the resources need to be brought in from outside area for road expansion. He then stated that the only other option is limestone brought in by river or rail.

Supervisor Medlin asked if there is a law that limits how many acres can be opened on a site before reclamation starts. Mr. Williford stated you can have as many as 40 – 60 acres open at one time, but you have to put up a reclamation bond that you cannot get out of until the reclamation is complete. Supervisor Russell stated he thought the gravel companies typically reclaim a section while working on other sections. Mr. Williford stated that is what his company does but that there are a couple of bad ones that do not and that give all gravel companies a bad name.

Supervisor Caldwell stated asked if the gravel trucks must use a designated haul route and that the roads on that route must be bonded. Mr. Williford stated they do have designated haul routes and that the roads must be bonded, and if they are a major highway the company has to have ingress/egress with MDOT.

Cliff Hunt – Standard Construction – came forward and stated he is in favor of approving the Sunset Provision extension. He stated companies have to mine the gravel where there are deposits, you can't just dig sand and gravel just anywhere. He stated comments were made that gravel mining will affect the value of homes in the area, it's not true and he has data that states this is not the case.

JD Cox – 2727 Marena Cove – came forward and stated that he is not antibusiness. He stated the aerials show that the homes came after the gravel pits and that is the way it should be. He stated is not anymore justified for business to alter investment of the neighbors in their homes and community than it would be for homeowners to alter the investment of business in existing gravel pit operations. He stated he understands there is a need for gravel, but gravel does not anchor communities, people anchor communities. Mr. Cox stated he is concerned with the quality of life if a gravel pit operation was allowed beside a community.

Supervisor Caldwell stated she has had several calls in support of the Sunset Provision extension from vendors, businesses and others in the community.

Jeanne Melton – 10143 Cypress Knee – came forward and stated she is in opposition of the Sunset Provision extension. She stated the face of DeSoto County has changed and asked the Board to look at the Ordinance and how the A-R zone has changed. She stated that due to the assets such as parks and residences are not compatible with the A-R gravel mines and this zoning may not be appropriate anymore. Ms. Melton then cited a case of a child that wandered off and was missing in the area and was later found in a wooded area, and asked the Board to imagine if there was an active gravel mine in the area what could have happened to the child. She then stated she is concerned with the safety of the community if a gravel mine is approved in the A-R zoned areas of the County. She then asked the Board to exclude residential areas from being able to apply for gravel mining in the A-R zone.

Ronnie Hall – 9446 Bethel Road – stated that from what he understood at the previous Board meeting the Board of Supervisors can change anything.

Cathy Minor – asked if gravel mines allowed in the A-R zone within city limits.

Mr. Hopkins gave a comparison of A and A-R lots and building requirements. He then stated there are still numerous sites in the A-R zone that would be conducive to gravel mining. Mr. Hopkins then noted that the County does not control the zoning within the cities.

John Burrell – 10174 Cypress Knee – came forward and stated he is the President of the Evening Shade HOA. He asked if the Sunset Provision is not denied what happens next. He then asked if there is a rating scale to indicate which areas are more residential. Supervisor Russell stated that if the Sunset Provision extension is approved the Board of Adjustment, each application stands on its own merit. He went on to state if the Sunset Provision is not extended and Conditional Uses are not allowed, if gravel is found the landowner could ask for a rezoning to A to allow for gravel mining. Supervisor Russell stated the Sunset Provision extension will only allow for an application to be submitted.

Supervisor Lee stated they have all learned a lot through this and are thankful for that. He stated that the Board has to take everything in to consideration and also have to look at the cost to the taxpayers to bring in gravel from outside the County.

Supervisor Medlin stated that all Conditional Uses have courtesy notification cards sent out within ¼ mile, not all are approved, and if approved they have conditions and time limits placed on the approval.

Sara King – 10130 Cypress Knee – came forward and stated she understands the implications of removing gravel pits from the A-R zone completely but asked the Board to consider increasing the amount of area between the mining and residential areas. Supervisor Medlin stated those are things that can be discussed and negotiated at the Board of Adjustment meeting.

Supervisor Caldwell asked if approved when the Sunset Provision would expire. Mr. Hopkins stated it would expire December 31, 2016.

Supervisor Gardner thanked the GIS and Planning Department staff for the research provided to the Board.

Supervisor Russell made the motion and Supervisor Caldwell seconded the motion to close the Public Hearing.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN	YES
SECOND DISTRICT SUPERVISOR, MARK GARDNER	YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL	YES
FOURTH DISTRICT SUPERVISOR, LEE CALDWELL	YES
FIFTH DISTRICT SUPERVISOR, MICHAEL LEE	YES

Supervisor Gardner made a Motion to rescind the December 31, 2015 repealer, and extend the application deadline for mobile home and gravel mining operation conditional uses in the Agricultural-Residential Zone from December 31, 2015 to December 31, 2016. Supervisor Russell seconded the Motion.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN	YES
SECOND DISTRICT SUPERVISOR, MARK GARDNER	YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL	YES
FOURTH DISTRICT SUPERVISOR, LEE CALDWELL	YES
FIFTH DISTRICT SUPERVISOR, MICHAEL LEE	YES

2. OTHER

a. Walls Fire Department – request of waiver the Design Standards Ordinance and building permit fees

M. Hopkins presented a request by the Walls Fire Department to waive the requirements of the Design Standards Ordinance and the building permit fees.

Supervisor Medlin asked if the building will belong to the County or the Walls Fire Department. It was discussed that it would belong to Walls Fire Department.

Supervisor Gardner and Supervisor Caldwell stated they think the Board should have more information on what items of the Design Standards Ordinance they are asking to waive.

Supervisor Caldwell made a Motion and Supervisor Gardner seconded the Motion to waive the building permit fees for the Walls Fire Department and to ask them to go through the Fire and EMA Committee to get the design plans for the building approved.

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN	YES
SECOND DISTRICT SUPERVISOR, MARK GARDNER	YES
THIRD DISTRICT SUPERVISOR, BILL RUSSELL	YES
FOURTH DISTRICT SUPERVISOR, LEE CALDWELL	YES
FIFTH DISTRICT SUPERVISOR, MICHAEL LEE	YES

b. Bridgtown Fire Department – request of waiver the Design Standards Ordinance

The Board took no action on this item.

I. NEW BUSINESS

1. Accounting – Late Bill, Audit Department

County Administrator Vanessa Lynchard informed the Board that the Accounting Department had received a call from the Office of the State Auditor and there are two bills that have not been received.

Supervisor Bill Russell made the motion and Supervisor Lee Caldwell seconded the motion to approve paying the two late bills to the State Audit Department.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

See Exhibit I.1.

2. Office of Procurement – Pharos Support Agreement for Election Equipment

Director of Procurement and Administrative Services Pat McLeod requested the Board approve a support agreement contract with Pharos. She stated this is an informative agreement establishing what they will do for DeSoto County, including setting the criteria for a mock election and providing the file format to vendors so that vendors can prove their ability to upload election results to the SEMS system in Jackson. The vendors will prove their ability to upload the results to Jackson the night of the election. EASI will pay the fees for the consultant to come. Mrs. McLeod stated this will probably happen within the next two week. She also stated that Circuit Clerk Dale Thompson feels the vendors should prove the results before the County awards the bid.

Supervisor Bill Russell made the motion and Supervisor Jessie Medlin seconded the motion to approve the support agreement contract with Pharos for the Election Commission.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>YES</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

See Exhibit I.2.

J. EXECUTIVE SESSION

The executive session portion of these minutes is recorded under the portion of the minutes called “Executive Session”.

I. OTHER

1. School Tax Levy (moved from Executive)

Board Attorney Tony Nowak stated he has received a letter from the School Board Attorney, Keith Treadway, asking that the millage transfer be made. Mr. Nowak stated he prepared a Board Order, Mr. Treadway has looked at it, and he approved it. Mr. Nowak stated the school Comptroller has questioned if the millage would reflect the correct dollar figure. Mrs. Lynchard stated that if they went by the dollar figure, the School Board would actually be shorted.

Supervisor Gardner stated if the School Board Attorney is good with the Order, he thinks the Board should proceed. Mrs. Lynchard stated the order has to be published in the newspaper and the transfer will be in 30 days, provided there is no written protest.

Supervisor Michael Lee made the motion and Supervisor Bill Russell seconded the motion to approve the Board Order regarding the transfer of millage for the School Board to be transferred from one line to another, and authorize publication of the order in the newspaper.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>ABSENT</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

Supervisor Gardner stated this is a lesson learned, and that next year, the School Board will not just drop off the budget; someone will sit down and go over it with them.

Supervisor Jessie Medlin made the motion and Supervisor Bill Russell seconded the motion to recess the Board meeting until April 18, 2016, at 9:00 a.m.

The motion passed by a vote as follows:

Supervisor Jessie Medlin, First District	<u>YES</u>
Supervisor Mark Gardner, Second District	<u>YES</u>
Supervisor Bill Russell, Third District	<u>YES</u>
Supervisor Lee Caldwell, Fourth District	<u>ABSENT</u>
Supervisor Michael Lee, Fifth District	<u>YES</u>

THIS the 7th day of April, 2016, these minutes have been read and approved by the DeSoto County Board of Supervisors.

Jessie Medlin, President
DeSoto County Board of Supervisors